

EXHIBIT B

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Subject: Valsartan MDL: Manufacturer Defendants' Counter-Proposal re Non-Responsive Documents

Counsel:

During the case management conference on Wednesday, April 7, plaintiffs proposed that they be permitted to challenge 50 documents marked “non-responsive” per manufacturer defendant deponent, and that the manufacturer defendants would be provided three days to provide a basis for the non-responsive designation in writing, and then two days later the parties would present any disputes as to whether the non-responsive designation was proper for the Court to decide based on an *in camera* review of the document. *See* Hg. Tr. 49-5:18. Given that more than 30 different manufacturer defendant witnesses are to be deposed during the approximately seven weeks between now and June 1, 2021, the manufacturer defendants believe plaintiffs’ proposal will create an unnecessary burden on the manufacturer defendants and the Court. Nevertheless recognizing the Court’s desire for the parties to resolve this issue among themselves, and notwithstanding that each manufacturer defendant’s document production is unique, and the status of plaintiffs’ efforts to challenge non-responsive documents is different as to each manufacturer defendant, the manufacturer defendants are willing to consider plaintiffs’ proposal, but modified as follows:

1. Instead of fifty documents per deponent, plaintiffs would be permitted to challenge the non-responsive designation as to 50 total documents per manufacturer defendant on April 16 or a date of plaintiffs’ choosing, or plaintiffs would be permitted to challenge the non-responsive designation as to 10 documents per manufacturer deponent at least 10 days before the deponent’s deposition.
2. Under either selection above, just as with plaintiffs’ proposal, the manufacturer defendants would be provided three days to provide a basis for the non-responsive designation in writing, and then two days later the parties would present any disputes as to whether the non-responsive designation was proper for the Court to decide based on an *in camera* review of the document.

Please let us know if you would like to discuss.

Best,

Seth

